

COMPILATION OF SELECTED ACTS WITHIN
THE JURISDICTION OF THE COMMITTEE
ON ENERGY AND COMMERCE

COMMUNICATIONS LAW

As Amended Through December 31, 2002

INCLUDING

COMMUNICATIONS ACT OF 1934
TELECOMMUNICATIONS ACT OF 1996
COMMUNICATIONS SATELLITE ACT OF 1962
NATIONAL TELECOMMUNICATIONS AND INFORMATION
ADMINISTRATION ORGANIZATION ACT
TELEPHONE DISCLOSURE AND DISPUTE RESOLUTION ACT
COMMUNICATIONS ASSISTANCE FOR LAW ENFORCEMENT
ACT
ADDITIONAL COMMUNICATIONS STATUTES
SELECTED PROVISIONS FROM THE UNITED STATES CODE

PREPARED FOR THE USE OF THE
COMMITTEE ON ENERGY AND COMMERCE
U.S. HOUSE OF REPRESENTATIVES



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(A) the Commission shall take into account the non-profit character of the programming provider and any Federal funds used to support such programming;

(B) the Commission shall not permit such prices to exceed, for any channel made available under this subsection, 50 percent of the total direct costs of making such channel available; and

(C) in the calculation of total direct costs, the Commission shall exclude—

(i) marketing costs, general administrative costs, and similar overhead costs of the provider of direct broadcast satellite service; and

(ii) the revenue that such provider might have obtained by making such channel available to a commercial provider of video programming.

(5) DEFINITIONS.—For purposes of this subsection—

(A) The term “provider of direct broadcast satellite service” means—

(i) a licensee for a Ku-band satellite system under part 100 of title 47 of the Code of Federal Regulations; or

(ii) any distributor who controls a minimum number of channels (as specified by Commission regulation) using a Ku-band fixed service satellite system for the provision of video programming directly to the home and licensed under part 25 of title 47 of the Code of Federal Regulations.

(B) The term “national educational programming supplier” includes any qualified noncommercial educational television station, other public telecommunications entities, and public or private educational institutions.

SEC. 336. [47 U.S.C. 336] BROADCAST SPECTRUM FLEXIBILITY.¹

(a) COMMISSION ACTION.—If the Commission determines to issue additional licenses for advanced television services, the Commission—

¹Section 531 of the Public Health, Security, and Bioterrorism Response Act of 2001 (PL 107-188) provided for additional advanced television channel assignments as follows:

SEC. 531. [47 U.S.C. 336 note] TRANSITION TO DIGITAL TELEVISION.

(a) PAIR ASSIGNMENT REQUIRED.—In order to further promote the orderly transition to digital television, and to promote the equitable allocation and use of digital channels by television broadcast permittees and licensees, the Federal Communications Commission, at the request of an eligible licensee or permittee, shall, within 90 days after the date of enactment of this Act, allot, if necessary, and assign a paired digital television channel to that licensee or permittee, provided that—

(1) such channel can be allotted and assigned without further modification of the tables of allotments as set forth in sections 73.606 and 73.622 of the Commission's regulations (47 CFR 73.606, 73.622); and

(2) such allotment and assignment is otherwise consistent with the Commission's rules (47 CFR part 73).

(b) ELIGIBLE TRANSITION LICENSEE OR PERMITTEE.—For purposes of subsection (a), the term “eligible licensee or permittee” means only a full power television broadcast licensee or permittee (or its successor in interest) that—

(1) had an application pending for an analog television station construction permit as of October 24, 1991, which application was granted after April 3, 1997; and

(2) as of the date of enactment of this Act, is the permittee or licensee of that station.

(c) REQUIREMENTS ON LICENSEE OR PERMITTEE.—

(1) CONSTRUCTION DEADLINE.—Any licensee or permittee receiving a paired digital channel pursuant to this section—

(1) should limit the initial eligibility for such licenses to persons that, as of the date of such issuance, are licensed to operate a television broadcast station or hold a permit to construct such a station (or both); and

(2) shall adopt regulations that allow the holders of such licenses to offer such ancillary or supplementary services on designated frequencies as may be consistent with the public interest, convenience, and necessity.

(b) CONTENTS OF REGULATIONS.—In prescribing the regulations required by subsection (a), the Commission shall—

(1) only permit such licensee or permittee to offer ancillary or supplementary services if the use of a designated frequency for such services is consistent with the technology or method designated by the Commission for the provision of advanced television services;

(2) limit the broadcasting of ancillary or supplementary services on designated frequencies so as to avoid derogation of any advanced television services, including high definition television broadcasts, that the Commission may require using such frequencies;

(3) apply to any other ancillary or supplementary service such of the Commission's regulations as are applicable to the offering of analogous services by any other person, except that no ancillary or supplementary service shall have any rights to carriage under section 614 or 615 or be deemed a multichannel video programming distributor for purposes of section 628;

(4) adopt such technical and other requirements as may be necessary or appropriate to assure the quality of the signal used to provide advanced television services, and may adopt regulations that stipulate the minimum number of hours per day that such signal must be transmitted; and

(5) prescribe such other regulations as may be necessary for the protection of the public interest, convenience, and necessity.

(c) RECOVERY OF LICENSE.—If the Commission grants a license for advanced television services to a person that, as of the date of such issuance, is licensed to operate a television broadcast station or holds a permit to construct such a station (or both), the Commission shall, as a condition of such license, require that either the additional license or the original license held by the licensee be surrendered to the Commission for reallocation or reassignment (or both) pursuant to Commission regulation.

(d) PUBLIC INTEREST REQUIREMENT.—Nothing in this section shall be construed as relieving a television broadcasting station from its obligation to serve the public interest, convenience, and ne-

(A) shall be required to construct the digital television broadcast facility within 18 months of the date on which the Federal Communications Commission issues a construction permit therefore, and

(B) shall be prohibited from obtaining or receiving an extension of time from the Commission beyond the construction deadline established by paragraph (1).

(2) PROHIBITION OF ANALOG OPERATION USING DIGITAL PAIR.—Any licensee or permittee receiving a paired digital channel pursuant to this section shall be prohibited from giving up its current paired analog assignment and becoming a single-channel broadcaster and operating in analog on such paired digital channel.

(d) RELIEF RESTRICTED.—Any paired digital allotment and assignment made under this section shall not be available to any other applicant unless such applicant is an eligible licensee or permittee within the meaning of subsection (b).

cessity. In the Commission's review of any application for renewal of a broadcast license for a television station that provides ancillary or supplementary services, the television licensee shall establish that all of its program services on the existing or advanced television spectrum are in the public interest. Any violation of the Commission rules applicable to ancillary or supplementary services shall reflect upon the licensee's qualifications for renewal of its license.

(e) FEES.—

(1) SERVICES TO WHICH FEES APPLY.—If the regulations prescribed pursuant to subsection (a) permit a licensee to offer ancillary or supplementary services on a designated frequency—

(A) for which the payment of a subscription fee is required in order to receive such services, or

(B) for which the licensee directly or indirectly receives compensation from a third party in return for transmitting material furnished by such third party (other than commercial advertisements used to support broadcasting for which a subscription fee is not required), the Commission shall establish a program to assess and collect from the licensee for such designated frequency an annual fee or other schedule or method of payment that promotes the objectives described in subparagraphs (A) and (B) of paragraph (2).

(2) COLLECTION OF FEES.—The program required by paragraph (1) shall—

(A) be designed (i) to recover for the public a portion of the value of the public spectrum resource made available for such commercial use, and (ii) to avoid unjust enrichment through the method employed to permit such uses of that resource;

(B) recover for the public an amount that, to the extent feasible, equals but does not exceed (over the term of the license) the amount that would have been recovered had such services been licensed pursuant to the provisions of section 309(j) of this Act and the Commission's regulations thereunder; and

(C) be adjusted by the Commission from time to time in order to continue to comply with the requirements of this paragraph.

(3) TREATMENT OF REVENUES.—

(A) GENERAL RULE.—Except as provided in subparagraph (B), all proceeds obtained pursuant to the regulations required by this subsection shall be deposited in the Treasury in accordance with chapter 33 of title 31, United States Code.

(B) RETENTION OF REVENUES.—Notwithstanding subparagraph (A), the salaries and expenses account of the Commission shall retain as an offsetting collection such sums as may be necessary from such proceeds for the costs of developing and implementing the program required by this section and regulating and supervising advanced television services. Such offsetting collections shall be available for obligation subject to the terms and conditions of

the receiving appropriations account, and shall be deposited in such accounts on a quarterly basis.

(4) REPORT.—Within 5 years after the date of enactment of the Telecommunications Act of 1996, the Commission shall report to the Congress on the implementation of the program required by this subsection, and shall annually thereafter advise the Congress on the amounts collected pursuant to such program.

(f) PRESERVATION OF LOW-POWER COMMUNITY TELEVISION BROADCASTING.—

(1) CREATION OF CLASS A LICENSES.—

(A) RULEMAKING REQUIRED.—Within 120 days after the date of the enactment of the Community Broadcasters Protection Act of 1999, the Commission shall prescribe regulations to establish a class A television license to be available to licensees of qualifying low-power television stations. Such regulations shall provide that—

(i) the license shall be subject to the same license terms and renewal standards as the licenses for full-power television stations except as provided in this subsection; and

(ii) each such class A licensee shall be accorded primary status as a television broadcaster as long as the station continues to meet the requirements for a qualifying low-power station in paragraph (2).

(B) NOTICE TO AND CERTIFICATION BY LICENSEES.—Within 30 days after the date of the enactment of the Community Broadcasters Protection Act of 1999, the Commission shall send a notice to the licensees of all low-power television licenses that describes the requirements for class A designation. Within 60 days after such date of enactment, licensees intending to seek class A designation shall submit to the Commission a certification of eligibility based on the qualification requirements of this subsection. Absent a material deficiency, the Commission shall grant certification of eligibility to apply for class A status.

(C) APPLICATION FOR AND AWARD OF LICENSES.—Consistent with the requirements set forth in paragraph (2)(A) of this subsection, a licensee may submit an application for class A designation under this paragraph within 30 days after final regulations are adopted under subparagraph (A) of this paragraph. Except as provided in paragraphs (6) and (7), the Commission shall, within 30 days after receipt of an application of a licensee of a qualifying low-power television station that is acceptable for filing, award such a class A television station license to such licensee.

(D) RESOLUTION OF TECHNICAL PROBLEMS.—The Commission shall act to preserve the service areas of low-power television licensees pending the final resolution of a class A application. If, after granting certification of eligibility for a class A license, technical problems arise requiring an engineering solution to a full-power station's allotted parameters or channel assignment in the digital television Table of Allotments, the Commission shall make such modifications as necessary—

(i) to ensure replication of the full-power digital television applicant's service area, as provided for in sections 73.622 and 73.623 of the Commission's regulations (47 CFR 73.622, 73.623); and

(ii) to permit maximization of a full-power digital television applicant's service area consistent with such sections 73.622 and 73.623,

if such applicant has filed an application for maximization or a notice of its intent to seek such maximization by December 31, 1999, and filed a bona fide application for maximization by May 1, 2000. Any such applicant shall comply with all applicable Commission rules regarding the construction of digital television facilities.

(E) CHANGE APPLICATIONS.—If a station that is awarded a construction permit to maximize or significantly enhance its digital television service area, later files a change application to reduce its digital television service area, the protected contour of that station shall be reduced in accordance with such change modification.

(2) QUALIFYING LOW-POWER TELEVISION STATIONS.—For purposes of this subsection, a station is a qualifying low-power television station if—

(A)(i) during the 90 days preceding the date of the enactment of the Community Broadcasters Protection Act of 1999—

(I) such station broadcast a minimum of 18 hours per day;

(II) such station broadcast an average of at least 3 hours per week of programming that was produced within the market area served by such station, or the market area served by a group of commonly controlled low-power stations that carry common local programming produced within the market area served by such group; and

(III) such station was in compliance with the Commission's requirements applicable to low-power television stations; and

(ii) from and after the date of its application for a class A license, the station is in compliance with the Commission's operating rules for full-power television stations; or

(B) the Commission determines that the public interest, convenience, and necessity would be served by treating the station as a qualifying low-power television station for purposes of this section, or for other reasons determined by the Commission.

(3) COMMON OWNERSHIP.—No low-power television station authorized as of the date of the enactment of the Community Broadcasters Protection Act of 1999 shall be disqualified for a class A license based on common ownership with any other medium of mass communication.

(4) ISSUANCE OF LICENSES FOR ADVANCED TELEVISION SERVICES TO TELEVISION TRANSLATOR STATIONS AND QUALIFYING LOW-POWER TELEVISION STATIONS.—The Commission is not required to issue any additional license for advanced television services to the licensee of a class A television station under

this subsection, or to any licensee of any television translator station, but shall accept a license application for such services proposing facilities that will not cause interference to the service area of any other broadcast facility applied for, protected, permitted, or authorized on the date of filing of the advanced television application. Such new license or the original license of the applicant shall be forfeited after the end of the digital television service transition period, as determined by the Commission. A licensee of a low-power television station or television translator station may, at the option of licensee, elect to convert to the provision of advanced television services on its analog channel, but shall not be required to convert to digital operation until the end of such transition period.

(5) **NO PREEMPTION OF SECTION 337.**—Nothing in this subsection preempts or otherwise affects section 337 of this Act.

(6) **INTERIM QUALIFICATION.**—

(A) **STATIONS OPERATING WITHIN CERTAIN BANDWIDTH.**—The Commission may not grant a class A license to a low-power television station for operation between 698 and 806 megahertz, but the Commission shall provide to low-power television stations assigned to and temporarily operating in that bandwidth the opportunity to meet the qualification requirements for a class A license. If such a qualified applicant for a class A license is assigned a channel within the core spectrum (as such term is defined in MM Docket No. 87-286, February 17, 1998), the Commission shall issue a class A license simultaneously with the assignment of such channel.

(B) **CERTAIN CHANNELS OFF-LIMITS.**—The Commission may not grant under this subsection a class A license to a low-power television station operating on a channel within the core spectrum that includes any of the 175 additional channels referenced in paragraph 45 of its February 23, 1998, Memorandum Opinion and Order on Reconsideration of the Sixth Report and Order (MM Docket No. 87-268). Within 18 months after the date of the enactment of the Community Broadcasters Protection Act of 1999, the Commission shall identify by channel, location, and applicable technical parameters those 175 channels.

(7) **NO INTERFERENCE REQUIREMENT.**—The Commission may not grant a class A license, nor approve a modification of a class A license, unless the applicant or licensee shows that the class A station for which the license or modification is sought will not cause—

(A) interference within—

(i) the predicted Grade B contour (as of the date of the enactment of the Community Broadcasters Protection Act of 1999, or November 1, 1999, whichever is later, or as proposed in a change application filed on or before such date) of any television station transmitting in analog format; or

(ii)(I) the digital television service areas provided in the DTV Table of Allotments; (II) the areas protected in the Commission's digital television regulations (47 CFR 73.622(e) and (f)); (III) the digital tele-

vision service areas of stations subsequently granted by the Commission prior to the filing of a class A application; and (IV) stations seeking to maximize power under the Commission's rules, if such station has complied with the notification requirements in paragraph (1)(D);

(B) interference within the protected contour of any low-power television station or low-power television translator station that—

(i) was licensed prior to the date on which the application for a class A license, or for the modification of such a license, was filed;

(ii) was authorized by construction permit prior to such date; or

(iii) had a pending application that was submitted prior to such date; or

(C) interference within the protected contour of 80 miles from the geographic center of the areas listed in section 22.625(b)(1) or 90.303 of the Commission's regulations (47 CFR 22.625(b)(1) and 90.303) for frequencies in—

(i) the 470–512 megahertz band identified in section 22.621 or 90.303 of such regulations; or

(ii) the 482–488 megahertz band in New York.

(8) **PRIORITY FOR DISPLACED LOW-POWER STATIONS.**—Low-power stations that are displaced by an application filed under this section shall have priority over other low-power stations in the assignment of available channels.

(g) **EVALUATION.**—Within 10 years after the date the Commission first issues additional licenses for advanced television services, the Commission shall conduct an evaluation of the advanced television services program. Such evaluation shall include—

(1) an assessment of the willingness of consumers to purchase the television receivers necessary to receive broadcasts of advanced television services;

(2) an assessment of alternative uses, including public safety use, of the frequencies used for such broadcasts; and

(3) the extent to which the Commission has been or will be able to reduce the amount of spectrum assigned to licensees.

(h)¹(1) Within 60 days after receiving a request (made in such form and manner and containing such information as the Commission may require) under this subsection from a low-power television station to which this subsection applies, the Commission shall authorize the licensee or permittee of that station to provide digital data service subject to the requirements of this subsection as a pilot project to demonstrate the feasibility of using low-power television stations to provide high-speed wireless digital data service, including Internet access to unserved areas.

(2) The low-power television stations to which this subsection applies are as follows:

¹ Section 143 of the Miscellaneous Appropriations Act, 2001 (P.L. 106-554; Appendix D), added subsection (h) to section 336. Section 143(h) of the Miscellaneous Appropriations Act, 2001, provided as follows:

(b) [47 U.S.C. 336 note] The Federal Communications Commission shall submit a report to the Congress on June 30, 2001, and June 30, 2002, evaluating the utility of using low-power television stations to provide high-speed digital data service. The reports shall be based on the pilot projects authorized by section 336(h) of the Communications Act of 1934 (47 U.S.C. 336(h)).

- (A) KHLM-LP, Houston, Texas.
- (B) WTAM-LP, Tampa, Florida.
- (C) WWRJ-LP, Jacksonville, Florida.
- (D) WVBG-LP, Albany, New York.
- (E) KHHI-LP, Honolulu, Hawaii.
- (F) KPHE-LP (K19DD), Phoenix, Arizona.
- (G) K34FI, Bozeman, Montana.
- (H) K65GZ, Bozeman, Montana.
- (I) WXOB-LP, Richmond, Virginia.
- (J) WIIW-LP, Nashville, Tennessee.

(K) A station and repeaters to be determined by the Federal Communications Commission for the sole purpose of providing service to communities in the Kenai Peninsula Borough and Matanuska Susitna Borough.

(L) WSPY-LP, Plano, Illinois.

(M) W24AJ, Aurora, Illinois.

(3) Notwithstanding any requirement of section 553 of title 5, United States Code, the Commission shall promulgate regulations establishing the procedures, consistent with the requirements of paragraphs (4) and (5), governing the pilot projects for the provision of digital data services by certain low power television licensees within 120 days after the date of enactment of LPTV Digital Data Services Act. The regulations shall set forth—

(A) requirements as to the form, manner, and information required for submitting requests to the Commission to provide digital data service as a pilot project;

(B) procedures for testing interference to digital television receivers caused by any pilot project station or remote transmitter;

(C) procedures for terminating any pilot project station or remote transmitter or both that causes interference to any analog or digital full-power television stations, class A television station, television translators or any other users of the core television band;

(D) specifications for reports to be filed quarterly by each low power television licensee participating in a pilot project;

(E) procedures by which a low power television licensee participating in a pilot project shall notify television broadcast stations in the same market upon commencement of digital data services and for ongoing coordination with local broadcasters during the test period; and

(F) procedures for the receipt and review of interference complaints on an expedited basis consistent with paragraph (5)(D).

(4) A low-power television station to which this subsection applies may not provide digital data service unless—

(A) the provision of that service, including any remote return-path transmission in the case of 2-way digital data service, does not cause any interference in violation of the Commission's existing rules, regarding interference caused by low power television stations to full-service analog or digital television stations, class A television stations, or television translator stations; and

(B) the station complies with the Commission's regulations governing safety, environmental, and sound engineering practices, and any other Commission regulation under paragraph (3) governing pilot program operations.

(5)(A) The Commission may limit the provision of digital data service by a low-power television station to which this subsection applies if the Commission finds that—

(i) the provision of 2-way digital data service by that station causes any interference that cannot otherwise be remedied; or

(ii) the provision of 1-way digital data service by that station causes any interference.

(B) The Commission shall grant any such station, upon application (made in such form and manner and containing such information as the Commission may require) by the licensee or permittee of that station, authority to move the station to another location, to modify its facilities to operate on a different channel, or to use booster or auxiliary transmitting locations, if the grant of authority will not cause interference to the allowable or protected service areas of full service digital television stations, National Television Standards Committee assignments, or television translator stations, and provided, however, no such authority shall be granted unless it is consistent with existing Commission regulations relating to the movement, modification, and use of non-class A low power television transmission facilities in order—

(i) to operate within television channels 2 through 51, inclusive; or

(ii) to demonstrate the utility of low-power television stations to provide high-speed 2-way wireless digital data service.

(C) The Commission shall require quarterly reports from each station authorized to provide digital data services under this subsection that include—

(i) information on the station's experience with interference complaints and the resolution thereof;

(ii) information on the station's market success in providing digital data service; and

(iii) such other information as the Commission may require in order to administer this subsection.

(D) The Commission shall resolve any complaints of interference with television reception caused by any station providing digital data service authorized under this subsection within 60 days after the complaint is received by the Commission.

(6) The Commission shall assess and collect from any low-power television station authorized to provide digital data service under this subsection an annual fee or other schedule or method of payment comparable to any fee imposed under the authority of this Act on providers of similar services. Amounts received by the Commission under this paragraph may be retained by the Commission as an offsetting collection to the extent necessary to cover the costs of developing and implementing the pilot program authorized by this subsection, and regulating and supervising the provision of digital data service

by low-power television stations under this subsection. Amounts received by the Commission under this paragraph in excess of any amount retained under the preceding sentence shall be deposited in the Treasury in accordance with chapter 33 of title 31, United States Code.

(7) In this subsection, the term "digital data service" includes—

- (A) digitally-based interactive broadcast service; and
- (B) wireless Internet access, without regard to—
 - (i) whether such access is—
 - (I) provided on a one-way or a two-way basis;
 - (II) portable or fixed; or
 - (III) connected to the Internet via a band allocated to Interactive Video and Data Service; and
 - (ii) the technology employed in delivering such service, including the delivery of such service via multiple transmitters at multiple locations.

(8) Nothing in this subsection limits the authority of the Commission under any other provision of law.

(i) DEFINITIONS.—As used in this section:

(1) ADVANCED TELEVISION SERVICES.—The term "advanced television services" means television services provided using digital or other advanced technology as further defined in the opinion, report, and order of the Commission entitled "Advanced Television Systems and Their Impact Upon the Existing Television Broadcast Service", MM Docket 87-268, adopted September 17, 1992, and successor proceedings.

(2) DESIGNATED FREQUENCIES.—The term "designated frequency" means each of the frequencies designated by the Commission for licenses for advanced television services.

(3) HIGH DEFINITION TELEVISION.—The term "high definition television" refers to systems that offer approximately twice the vertical and horizontal resolution of receivers generally available on the date of enactment of the Telecommunications Act of 1996, as further defined in the proceedings described in paragraph (1) of this subsection.

SEC. 337. [47 U.S.C. 337] ALLOCATION AND ASSIGNMENT OF NEW PUBLIC SAFETY SERVICES LICENSES AND COMMERCIAL LICENSES.

(a) IN GENERAL.—Not later than January 1, 1998, the Commission shall allocate the electromagnetic spectrum between 746 megahertz and 806 megahertz, inclusive, as follows:

(1) 24 megahertz of that spectrum for public safety services according to the terms and conditions established by the Commission, in consultation with the Secretary of Commerce and the Attorney General; and

(2) 36 megahertz of that spectrum for commercial use to be assigned by competitive bidding pursuant to section 309(j).

(b) ASSIGNMENT.—The Commission shall commence assignment of licenses for public safety services created pursuant to subsection (a) no later than September 30, 1998.

(c) LICENSING OF UNUSED FREQUENCIES FOR PUBLIC SAFETY SERVICES.—

(1) USE OF UNUSED CHANNELS FOR PUBLIC SAFETY SERVICES.—Upon application by an entity seeking to provide public